

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 23rd day of May, two thousand sixteen.

PRESENT:

JOSÉ A. CABRANES,
GERARD E. LYNCH,
CHRISTOPHER F. DRONEY,
Circuit Judges.

LANYING LIN-CHEN, AKA LAN YING
LIN,
Petitioner,

v.

LORETTA E. LYNCH, UNITED STATES
ATTORNEY GENERAL,
Respondent.

14-4588
NAC

FOR PETITIONER: Michael Brown, New York, New York.

FOR RESPONDENT: Benjamin C. Mizer, Principal Deputy
Assistant Attorney General; Kiley
Kane, Senior Litigation Counsel;
Arthur L. Rabin, Trial Attorney;
Lindsay G. Donahue, Law Clerk,
Office of Immigration Litigation,
United States Department of Justice,
Washington, D.C.

1 UPON DUE CONSIDERATION of this petition for review of a
2 Board of Immigration Appeals ("BIA") decision, it is hereby
3 ORDERED, ADJUDGED, AND DECREED that the petition for review is
4 DENIED.

5 Petitioner Lanying Lin-Chen, a native and citizen of China,
6 seeks review of a November 28, 2014, decision of the BIA
7 affirming a September 26, 2012, decision of an Immigration Judge
8 ("IJ") denying Lin-Chen's application for asylum, withholding
9 of removal, and relief under the Convention Against Torture
10 ("CAT"). *In re Lanying Lin-Chen*, No. A094 793 307 (B.I.A. Nov.
11 28, 2014), *aff'g* No. A094 793 307 (Immig. Ct. N.Y. City Sept.
12 26, 2012). We assume the parties' familiarity with the
13 underlying facts and procedural history in this case.

14 Under the circumstances of this case, we have considered
15 both the IJ's and the BIA's opinions "for the sake of
16 completeness." *Wangchuck v. Dep't of Homeland Sec.*, 448 F.3d
17 524, 528 (2d Cir. 2006). The applicable standards of review
18 are well established. See 8 U.S.C. § 1252(b)(4)(B); *Yanqin*
19 *Weng v. Holder*, 562 F.3d 510, 513 (2d Cir. 2009).

20 For asylum applications, like Lin-Chen's, governed by the
21 REAL ID Act, the agency may, "[c]onsidering the totality of the
22 circumstances," base a credibility finding on inconsistencies
23 between the applicant's statements and other evidence, "without

1 regard to whether" they go "to the heart of the applicant's
2 claim." 8 U.S.C. § 1158(b)(1)(B)(iii); *Xiu Xia Lin v. Mukasey*,
3 534 F.3d 162, 163-64 (2d Cir. 2008). "We defer . . . to an IJ's
4 credibility determination unless, from the totality of the
5 circumstances, it is plain that no reasonable fact-finder could
6 make such an adverse credibility ruling." *Xiu Xia Lin*, 534 F.3d
7 at 167.

8 Substantial evidence supports the agency's adverse
9 credibility determination, which was based on inconsistencies
10 between Lin-Chen's and her brother's testimony, internal
11 inconsistencies in Lin-Chen's testimony, and a lack of
12 corroboration. First, the IJ reasonably relied on Lin-Chen's
13 inconsistent testimony regarding whether she participated in
14 underground church services in China or "conducted" them. She
15 repeatedly discussed instances when she "conducted" services,
16 but when confronted on cross-examination, stated that
17 "conducted" meant that she was a participant. While this could
18 be simply a misuse of the word "conduct," as Lin-Chen now argues,
19 it also gives rise to the competing inference that she
20 exaggerated her role in the services. See *Siewe v. Gonzales*,
21 480 F.3d 160, 167 (2d Cir. 2007) ("Decisions as to . . . which
22 of competing inferences to draw are entirely within the province
23 of the trier of fact" (internal quotation marks omitted)).

1 The agency also reasonably relied on multiple conflicts
2 between Lin-Chen's testimony and that of her brother: Lin-Chen
3 testified that her family went into hiding an hour away from
4 their home; her brother described the location as half an hour
5 away. The IJ was not required to accept Lin-Chen's brother's
6 explanation that some family members caught a faster bus while
7 others caught a slower bus. *See Majidi v. Gonzales*, 430 F.3d
8 77, 80-81 (2d Cir. 2005). Lin-Chen testified that in hiding
9 some family members slept on the floor; her brother testified
10 that everybody slept in a bed. Again, the IJ was not compelled
11 to accept her brother's explanation that the wooden floor could
12 be mistaken for a sofa bed. *Id.* Both Lin-Chen and her brother
13 were vague regarding their joint church attendance in the United
14 States: Lin-Chen clearly testified that they went to church
15 before her brother's November 2011 merits hearing; her brother
16 was certain that they first attended church together in the
17 United States during Christmas 2011. These inconsistencies,
18 while not on major points, are sufficient to uphold the adverse
19 credibility determination. *See Tu Lin v. Gonzales*, 446 F.3d
20 395, 402 (2d Cir. 2006) ("[E]ven where an IJ relies on
21 discrepancies or lacunae that, if taken separately, concern
22 matters collateral or ancillary to the claim, the cumulative
23 effect may nevertheless be deemed consequential by the

1 fact-finder" (internal quotation marks and citation omitted)).

2 Finally, Lin-Chen's lack of corroborating evidence further
3 undermined her credibility. "An applicant's failure to
4 corroborate . . . her testimony may bear on credibility, because
5 the absence of corroboration in general makes an applicant
6 unable to rehabilitate testimony that has already been called
7 into question." *Biao Yang v. Gonzales*, 496 F.3d 268, 273 (2d
8 Cir. 2007). Lin-Chen's brother's testimony, which was offered
9 to corroborate hers, contradicted hers in many ways, and was
10 also vague and internally inconsistent. Lin-Chen did not
11 present any other witnesses from her church, she presented no
12 evidence regarding medical treatment she received after her
13 alleged detention, and a letter from her father was entitled
14 to minimal weight because he was an interested party not
15 available for cross-examination. See *Y.C. v. Holder*, 741 F.3d
16 324, 334 (2d Cir. 2013) (deferring to agency's decision to
17 afford little weight to a relative's letter); *Xiao Ji Chen v.*
18 *U.S. Dep't of Justice*, 471 F.3d 315, 342 (2d Cir. 2006) (holding
19 that the weight accorded to evidence lies largely within the
20 agency's discretion).

21 Given the inconsistencies and lack of corroboration,
22 substantial evidence supports the agency's adverse credibility
23 determination, which is dispositive of asylum, withholding of

1 removal, and CAT relief. See *Xiu Xia Lin*, 534 F.3d at 167; *Paul*
2 *v. Gonzales*, 444 F.3d 148, 156-57 (2d Cir. 2006). Because the
3 credibility determination is dispositive, we do not reach the
4 agency's finding that Lin-Chen's asylum application was
5 untimely. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("As
6 a general rule courts and agencies are not required to make
7 findings on issues the decision of which is unnecessary to the
8 results they reach.").

9 For the foregoing reasons, the petition for review is
10 DENIED. As we have completed our review, the pending motion
11 for a stay of removal in this petition is DISMISSED as moot.

12 FOR THE COURT:
13 Catherine O'Hagan Wolfe, Clerk